

AMENDED IN ASSEMBLY JUNE 27, 2007

AMENDED IN SENATE APRIL 18, 2007

AMENDED IN SENATE MARCH 29, 2007

**SENATE BILL**

**No. 559**

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**Introduced by Senator Kehoe**

February 22, 2007

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An act to amend Section 62 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 559, as amended, Kehoe. Property taxation: change in ownership: exclusion.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. Beginning on January 1, 2006, existing law excludes from the definition of "change in ownership" transfers of real property between registered domestic partners.

This bill would also exclude from the definition of "change in ownership" any transfer of property between registered domestic partners that occurred between January 1, 2000, and January 1, 2006. This bill would require the assessor to reverse any reassessment for property that was transferred between these parties during these time periods, but only if the transferee submits an application for reversal of that reassessment on or before June 30, 2009, as specified. This bill

would require the State Board of Equalization to prepare a form for these requests, as specified. Any reassessment reversal would apply commencing with the lien date of the assessment year in which the claim is filed. By requiring county assessors to reverse a reassessment for this property, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(3) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

(4) This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) It is the intent of the Legislature in enacting this act to  
4 guarantee equality for all Californians, regardless of gender or  
5 sexual orientation, and to further the state's interests in protecting  
6 Californians from the potentially severe economic consequences  
7 of abandonment, separation, the death of a partner, and other life  
8 crises.

9 (b) To this end, the Legislature has enacted various statutes in  
10 an attempt to move California closer to fulfilling the promises of  
11 inalienable rights, liberty, and equality contained in Sections 1 and  
12 7 of Article I of the California Constitution.

13 (c) For example, in 1999, the Legislature enacted Chapter 588  
14 of the Statutes of 1999, effective January 1, 2000, which

1 established a state registry of domestic partnerships. In 2002, the  
2 Legislature enacted Chapter 447 of the Statutes of 2002, effective  
3 July 1, 2003, which granted registered domestic partners the same  
4 intestate succession rights with respect to separate property as  
5 spouses. In 2003, the Legislature enacted Chapter 421 of the  
6 Statutes of 2003, effective January 1, 2005, which extended to  
7 registered domestic partners nearly all of the rights and  
8 responsibilities of spouses under state law that had not been  
9 provided by prior domestic partner legislation. And, in 2005, the  
10 Legislature enacted Chapter ~~417~~ 416 of the Statutes of 2005, which  
11 amended Section 62 of the Revenue and Taxation Code concerning  
12 valuation and taxation of real property, to exclude property  
13 transfers between registered domestic partners from the definition  
14 of “change in ownership” for purposes of property tax  
15 reassessment. The Legislature has intended a liberal reading of  
16 these laws and this act builds upon this existing framework.

17 (d) Although it intended to protect family members during life  
18 crises and to reduce discrimination on the bases of sex and sexual  
19 orientation in a manner consistent with the California Constitution,  
20 Chapter 417 of the Statutes of 2005 did not expressly exempt  
21 transfers from one registered domestic partner to the other  
22 registered domestic partner that resulted from the death of a partner  
23 prior to January 1, 2006.

24 (e) Protection against reassessment of family owned real  
25 property and resulting increases in property taxes can be a critical  
26 bulwark against financial hardship and the loss of the family home  
27 or business when a family member dies or a family relationship  
28 ends in divorce or dissolution of a domestic partnership. The same  
29 is true for domestic partners whose relationships predated  
30 California’s protective legislation. Many domestic partners whose  
31 property was reassessed due to the death of one partner or the  
32 dissolution of the domestic partnership have been forced by the  
33 resulting increase in property taxes to sell the family home. Those  
34 domestic partners who have retained ownership and have been  
35 paying increased property taxes are being treated unequally in a  
36 manner inconsistent with the goal of the domestic partnership laws.

37 (f) Many lesbian, gay, and bisexual Californians continue to  
38 face economic discrimination, despite forming lasting, committed,  
39 and caring relationships with persons of the same sex according  
40 to the laws of this state. These couples build lives together, as do

1 spouses, by purchasing property and creating and operating family  
2 businesses. Expanding the rights of domestic partners with respect  
3 to property ownership would further California's compelling  
4 interests in promoting family relationships and protecting family  
5 members during life crises, and would reduce discrimination on  
6 the bases of sex and sexual orientation in a manner warranted by  
7 the California Constitution.

8 (g) Therefore, the Legislature finds and declares that this act  
9 serves a public purpose of the state.

10 SEC. 2. Section 62 of the Revenue and Taxation Code is  
11 amended to read:

12 62. Change in ownership shall not include:

13 (a) (1) Any transfer between coowners that results in a change  
14 in the method of holding title to the real property transferred  
15 without changing the proportional interests of the coowners in that  
16 real property, such as a partition of a tenancy in common.

17 (2) Any transfer between an individual or individuals and a legal  
18 entity or between legal entities, such as a cotenancy to a  
19 partnership, a partnership to a corporation, or a trust to a cotenancy,  
20 that results solely in a change in the method of holding title to the  
21 real property and in which proportional ownership interests of the  
22 transferors and transferees, whether represented by stock,  
23 partnership interest, or otherwise, in each and every piece of real  
24 property transferred, remain the same after the transfer. The  
25 provisions of this paragraph shall not apply to transfers also  
26 excluded from change in ownership under the provisions of  
27 subdivision (b) of Section 64.

28 (b) Any transfer for the purpose of perfecting title to the  
29 property.

30 (c) (1) The creation, assignment, termination, or reconveyance  
31 of a security interest; or (2) the substitution of a trustee under a  
32 security instrument.

33 (d) Any transfer by the trustor, or by the trustor's spouse or  
34 registered domestic partner, or by both, into a trust for so long as  
35 (1) the transferor is the present beneficiary of the trust, or (2) the  
36 trust is revocable; or any transfer by a trustee of such a trust  
37 described in either clause (1) or (2) back to the trustor; or, any  
38 creation or termination of a trust in which the trustor retains the  
39 reversion and in which the interest of others does not exceed 12  
40 years duration.

1 (e) Any transfer by an instrument whose terms reserve to the  
2 transferor an estate for years or an estate for life. However, the  
3 termination of such an estate for years or estate for life shall  
4 constitute a change in ownership, except as provided in subdivision  
5 (d) and in Section 63.

6 (f) The creation or transfer of a joint tenancy interest if the  
7 transferor, after the creation or transfer, is one of the joint tenants  
8 as provided in subdivision (b) of Section 65.

9 (g) Any transfer of a lessor's interest in taxable real property  
10 subject to a lease with a remaining term (including renewal options)  
11 of 35 years or more. For the purpose of this subdivision, for  
12 1979–80 and each year thereafter, it shall be conclusively presumed  
13 that all homes eligible for the homeowners' exemption, other than  
14 manufactured homes located on rented or leased land and subject  
15 to taxation pursuant to Part 13 (commencing with Section 5800)  
16 and floating homes subject to taxation pursuant to Section 229,  
17 that are on leased land have a renewal option of at least 35 years  
18 on the lease of that land, whether or not in fact that renewal option  
19 exists in any contract or agreement.

20 (h) Any purchase, redemption, or other transfer of the shares or  
21 units of participation of a group trust, pooled fund, common trust  
22 fund, or other collective investment fund established by a financial  
23 institution.

24 (i) Any transfer of stock or membership certificate in a housing  
25 cooperative that was financed under one mortgage, provided that  
26 mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or  
27 236 of the National Housing Act, as amended, or that housing  
28 cooperative was financed or assisted pursuant to Section 514, 515,  
29 or 516 of the Housing Act of 1949 or Section 202 of the Housing  
30 Act of 1959, or the housing cooperative was financed by a direct  
31 loan from the California Housing Finance Agency, and provided  
32 that the regulatory and occupancy agreements were approved by  
33 the governmental lender or insurer, and provided that the transfer  
34 is to the housing cooperative or to a person or family qualifying  
35 for purchase by reason of limited income. Any subsequent transfer  
36 from the housing cooperative to a person or family not eligible for  
37 state or federal assistance in reduction of monthly carrying charges  
38 or interest reduction assistance by reason of the income level of  
39 that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975, to March 1, 1981, between coowners in any property that was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980-81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of these corporations, or any combination thereof (including any transfer from one entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(l) Any transfer, that would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit that was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child,

children, ward, or wards have adjusted gross income that, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars (\$20,000) in the year in which the transfer occurs. As used in this subdivision, “child” or “ward” includes a minor or an adult. As used in this subdivision, “eligible dwelling unit” means the dwelling unit that was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984–85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee’s receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984–85 fiscal year.

(o) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

(p) (1) Commencing on January 1, 2000, any transfer between registered domestic partners, as defined in Section 297 of the Family Code, including, but not limited to:

(A) Transfers to a trustee for the beneficial use of a registered domestic partner, or the surviving registered domestic partner of a deceased transferor, or by a trustee of such a trust to the registered domestic partner of the trustor.

(B) Transfers that take effect upon the death of a registered domestic partner.

(C) Transfers to a registered domestic partner or former registered domestic partner in connection with a property settlement agreement or decree of dissolution of a registered domestic partnership or legal separation.

(D) The creation, transfer, or termination, solely between registered domestic partners, of any coowner’s interest.

(E) The distribution of a legal entity’s property to a registered domestic partner or former registered domestic partner in exchange for the interest of the registered domestic partner in the legal entity

1 in connection with a property settlement agreement or a decree of  
2 dissolution of a registered domestic partnership or legal separation.

3 (2) Any transferee whose property was reassessed in  
4 contravention of the provisions of this subdivision for a transfer  
5 occurring between January 1, 2000, and January 1, 2006, shall  
6 obtain a reversal of that reassessment upon application to the  
7 county assessor of the county in which the property is located.  
8 Application by the transferee shall be made to the assessor no later  
9 than June 30, 2009. This paragraph shall be liberally construed to  
10 provide the benefits of this subdivision and Article XIII A of the  
11 California Constitution to registered domestic partners.

12 (A) After consultation with the California Assessors'  
13 Association, the State Board of Equalization shall prescribe the  
14 form for claiming the reassessment reversal described in paragraph  
15 (2). The claim form shall be entitled "Claim for Reassessment  
16 Reversal for Registered Domestic Partners." The claim shall state  
17 on its face that a "certificate of registered domestic partnership"  
18 is available upon request from the California Secretary of State.

19 (B) The information on the claim shall include a description of  
20 the property, the parties to the transfer of interest in the property,  
21 the date of the transfer of interest in the property, and a statement  
22 that the transferee registered domestic partner and the transferor  
23 registered domestic partner were, on the date of transfer, in a  
24 registered domestic partnership as defined in Section 297 of the  
25 Family Code.

26 (C) The claimant shall declare that the information provided on  
27 the form is true, correct, and complete to the best of his or her  
28 knowledge and belief.

29 (D) The claimant shall ~~present a~~ *provide with the completed*  
30 *claim the* "Certificate of Registered Domestic Partnership," or  
31 photocopy thereof, naming the transferee and transferor as  
32 registered domestic partners *and reflecting the creation of the*  
33 *registered domestic partnership on a date prior to, or concurrent*  
34 *with, the date of the transfer for which a reassessment reversal is*  
35 *requested.*

36 (E) Any reassessment reversal granted pursuant to a claim shall  
37 apply commencing with the lien date of the assessment year, *as*  
38 *defined in Section 118*, in which the claim is filed. No refunds shall  
39 be made under this paragraph for any prior assessment year.

1 (F) Under any reassessment reversal granted pursuant to that  
2 claim, the adjusted full cash value of the subject real property in  
3 the assessment year described in subparagraph (E) shall be the  
4 adjusted base year value of the subject real property in the  
5 assessment year in which the excluded purchase or transfer took  
6 place, factored to the assessment year described in subparagraph  
7 (E) for both of the following:

8 (i) Inflation as annually determined in accordance with  
9 paragraph (1) of subdivision (a) of Section 51.

10 (ii) Any subsequent new construction occurring with respect to  
11 the subject real property.

12 SEC. 3. If the Commission on State Mandates determines that  
13 this act contains costs mandated by the state, reimbursement to  
14 local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.

17 SEC. 4. Notwithstanding Section 2229 of the Revenue and  
18 Taxation Code, no appropriation is made by this act and the state  
19 shall not reimburse any local agency for any property tax revenues  
20 lost by it pursuant to this act.

21 SEC. 5. This act provides for a tax levy within the meaning  
22 of Article IV of the Constitution and shall go into immediate effect.